

REMARKS

The indication of allowable subject matter in claims 1, 3-6, 8, 10, 12 and 14 is acknowledged and appreciated. In view of the following remarks, it is respectfully submitted that all claims are in condition for allowance.

The Examiner objects to claims 7-9 for minor informalities. It is respectfully submitted that the enclosed amendment obviates the alleged informalities. Accordingly, it is respectfully requested that this objection be withdrawn.

Claim 7 is the sole rejected independent claim and stands rejected under 35 U.S.C. § 102 as being anticipated by EP '030. This rejection is respectfully traversed for the following reasons.

Claim 7 recites in pertinent part, "a second electrode ***buried in the at least one insulating holder*** to have a predetermined interval to the airtight container; and a reflection member that includes an opening through which light emitted from the airtight container is emitted and that ***is externally provided to the second electrode***" (emphasis added). Exemplary embodiments of the buried second electrode are shown in Figures 13-14 of Applicants' drawings (associated benefits described in corresponding disclosure), in which second electrode 12 is buried in holder 20.

The Examiner alleges that Figure 1 of EP '030 discloses an insulating holder 5, a second electrode 3 and a reflective member. However, the alleged second electrode 3 is NOT buried in the alleged holder 5 as clearly shown in Figure 1 of EP '030. In contrast, the alleged second electrode 3 of EP '030 is arranged on the outer surface of the alleged holder 5 rather than buried therein. Indeed, the alleged holder 5 of EP '030 is an adhesive layer used to attach the electrode

3 to the outer surface of the vessel, and therefore teaches away from a configuration in which the electrode 3 is buried in the holder 5.

Even further, the Examiner merely concludes that EP '030 discloses "a reflection member" but does not identify any element or portion of EP '030 to support his position. In this regard, when imposing a rejection under 35 U.S.C. §102, the Examiner is required to point to "page and line" wherein an applied reference is perceived to identically disclose each feature of a claimed invention. *In re Rijckaert*, 9 F.3d 1531, 28 USPQ2d 1955 (Fed. Cir. 1993); *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481 (Fed. Cir. 1984). The Examiner has failed to do so in this case.

Nonetheless, it is respectfully submitted that EP '030 does not disclose a reflection member in the manner claimed. As shown in Figures 1-2 of EP '030, there does not appear to be any external element to the electrode 3 much less a reflection member arranged in the claimed manner. As such, EP '030 does not disclose a reflection member, let alone one that includes an opening through which light emitted from the airtight container is emitted and that *is externally provided to the second electrode*.

As anticipation under 35 U.S.C. § 102 requires that each and every element of the claim be disclosed, either expressly or inherently (noting that "inherency may not be established by probabilities or possibilities", *Scaltech Inc. v. Retec/Tetra*, 178 F.3d 1378 (Fed. Cir. 1999)), in a single prior art reference, *Akzo N.V. v. U.S. Int'l Trade Commission*, 808 F.2d 1471 (Fed. Cir. 1986), based on the forgoing, it is submitted that EP '030 does not anticipate claim 7, nor any claim dependent thereon.

Under Federal Circuit guidelines, a dependent claim is nonobvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are contained in the dependent claims, *Hartness International Inc. v. Simplimatic Engineering Co.*, 819 F.2d at 1100, 1108 (Fed. Cir. 1987). Accordingly, as the independent claims are patentable for the reasons set forth above, it is respectfully submitted that all claims dependent thereon are also patentable. In addition, it is respectfully submitted that the dependent claims are patentable based on their own merits by adding novel and non-obvious features to the combination.

Based on the foregoing, it is respectfully submitted that all pending claims are patentable over the cited prior art. Accordingly, it is respectfully requested that the rejections under 35 U.S.C. § 102/103 be withdrawn.

CONCLUSION

Having fully responded to all matters raised in the Office Action, Applicants submit that all claims are in condition for allowance, an indication for which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below. To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,
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